



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF COMTEL)	
TELCOM ASSETS LP REQUEST FOR A CERTIFICATE)	ORDER
OF PUBLIC CONVENIENCE AND NECESSITY TO)	
PROVIDE FACILITIES-BASED LOCAL EXCHANGE,)	
EXCHANGE ACCESS AND RESOLD INTEREXCHANGE)	
TELECOMMUNICATIONS SERVICES THROUGHOUT)	
THE STATE OF NEW JERSEY)	DOCKET NO. TE05110987

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., and by letter dated November 23, 2005, Comtel Telcom Assets LP ("Petitioner" or "Comtel") filed a Petition with the Board of Public Utilities ("Board") requesting a Certificate of Public Convenience and Necessity to provide facilities-based local exchange, exchange access telecommunications services and resold interexchange services throughout the State of New Jersey. Petitioner requests confidential treatment of the financial information in Exhibit C of its Petition. Pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., the Petitioner has submitted its financial information under seal and has included a sworn affidavit with substantiation for confidential treatment in order to limit the availability of proprietary information.

Comtel is a privately held corporation organized under the laws of the State of Texas on July 26, 2005. Petitioner's principal offices are located at 500 Boylston Street, Boston, Massachusetts 02116. Petitioner submitted copies of its Certificate of Limited Partnership, State of Texas Certificate of Fact and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. Petitioner states it is a new entrant into the telecommunications market and in a proposed transaction is seeking to acquire the telecommunications assets of VarTec Telecom,

Inc., Excel Telecommunications, Inc. and VarTec Solutions, Inc. (the "VarTec Companies"), upon consummation of an asset transfer agreement described in the transfer notice which was separately filed with the Board. Petitioner states that it has been granted authority to provide local exchange and interexchange telecommunications services in Wisconsin and has been issued a temporary license to provide these same services in Michigan. Petitioner further states that as a result of the proposed transaction to acquire telecommunications assets of the VarTec Companies, it is seeking the authority to provide local exchange, interexchange and resold wireless telecommunications services throughout the United States. Petitioner seeks authority to provide facilities-based and resold local exchange and exchange access telecommunications services to and from all points in the State of New Jersey, however, it may ultimately only provide facilities-based local services.

Petitioner requests authority to provide a full range of local exchange services to permit flexibility in its service offerings. Petitioner states that telecommunications services will be available on a full-time basis, 24 hours a day, seven days a week and that it will primarily market to residential customers. Petitioner also states that local exchange services may include, but not be limited to the following:

(1) Basic residential and business local exchange services (flat rate service, operator access, etc.); (2) Residential and business customer and class features (call waiting, caller ID, call forwarding, etc.); (3) Residential and business ancillary services (911, directory assistance, etc.); (4) Private line services; (5) Data transmission services and (6) Exchange access services. Petitioner states that it will offer unregulated resold interexchange telecommunications services to business and residential customers in the State of New Jersey. Petitioner claims that it has not been denied authorization to operate or had its authority revoked within any state nor has its officers or partners been the subjects of civil or criminal proceedings in any jurisdiction.

Petitioner states that it has no current plans to install facilities in the State of New Jersey, rather it intends to provide facilities-based services utilizing the functional equivalent of the unbundled network elements platform (UNE-P) of the incumbent local exchange carriers. Petitioner claims that due to the features of these arrangements, it does not initially intend to own any facilities, end-office switches, telecommunications circuit equipment, telecommunications signaling systems or telecommunications transmission facilities to provide local exchange telephone service. Petitioner states that it will seek authority to provide both facilities-based and resold services throughout the State of New Jersey so it may lease facilities (including UNEs), and may expand its operations as market conditions warrant and as such areas become open to competition. According to the competitive exchange carrier questionnaire submitted by the Petitioner, it initially plans to provide local exchange service to residential customers in municipalities that are within the exchange areas of Verizon. Petitioner may explore expanding its local exchange service offerings to business customers in the coming years. Petitioner anticipates that it will maintain the following toll free numbers for customer service acquired from the VarTec Companies through the asset transfer:

VarTec Telecom Local Customer Service	(800) 708-7395
VarTec Telecom Long Distance Customer Service	(800) 583-6767
Clear Choice Communications Customer Service	(800) 468-4872
Excel Telecommunications Local Customer Service	(877) 668-0808
Excel Telecommunications Long Distance Service	(800) 875-9235
VarTec Solutions Customer Service	(800) 871-0999

Petitioner's registered agent and registered office are: National Corporate Research, Ltd. 14 Scenic Drive, Dayton, New Jersey 08810.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8 and N.J.A.C. 14:1-4.3 which require that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts ("USOA"), respectively. In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices located at 500 Boylston Street, Boston, Massachusetts 02116. Petitioner also states, upon written notice from the Board, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that expedited approval of its Petition will provide significant competitive benefits to customers by providing them with a carrier of choice, competitive prices, increased reliability, responsiveness, and the introduction of new services. Petitioner states approval of this Petition will serve the public interest.

Petitioner states that as evident from the information contained in Exhibit E, it possesses all of the qualified personnel needed to provide competitive local exchange services, including accounting, engineering, sales, and all other personnel.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to "provide diversity in the supply of telecommunications services" and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Comtel's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange telecommunications services throughout New Jersey subject to approval of its tariff. The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60, and N.J.S.A. 52:27E-61 and 52:27E-62, the Petitioner is subject to an annual assessment by both the Board and the Division of the Ratepayer Advocate, respectively. The Board notes that the Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board.

The Board HEREBY ORDERS that:

- 1) Petitioner file its tariff for Board approval.
- 2) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of Five Dollars and 00/100 \$5.00 for each day thereafter until such report is filed.
- 3) Pursuant to N.J.S.A. 48:2-59 and 48:2-60, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 the following year.

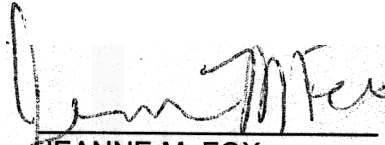
On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the company's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and statement of gross intrastate revenues from operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

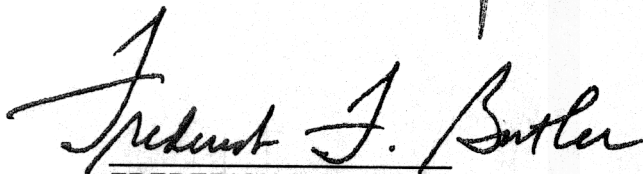
Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board its books and records upon forty-eight (48) hours notice, and in the manner requested, and to pay to the


Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA.

DATED: 4/27/06

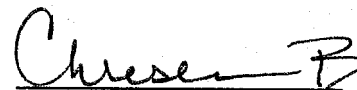
BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT



FREDERICK F. BUTLER
COMMISSIONER


CONNIE O. HUGHES
COMMISSIONER

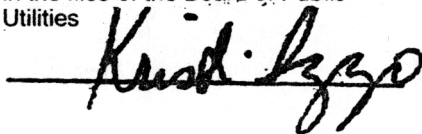

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



IN THE MATTER OF THE PETITION OF COMTEL TELCOM ASSETS LP FOR
A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE
FACILITIES-BASED LOCAL EXCHANGE, EXCHANGE ACCESS AND RESOLD
INTEREXCHANGE TELECOMMUNICATIONS SERVICES THROUGHOUT
THE STATE OF NEW JERSEY

DOCKET NO. TE05110987

SERVICE LIST

Serial No.	<u>Name and Address</u>	Serial No.	<u>Name and Address</u>
1	Petitioner's Contact Person: Stu Porter, Chairman Comtel Telcom Assets LP. 500 Boylston St., 17 th Floor Boston, Massachusetts 02116	4	Board's Staff: Walter Szymanski, Director Division of Audits Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
2	Petitioner's Attorney: Jeffrey A. Marks Jessica W. Hafer Latham & Watkins LLP 555 Eleventh Street, N.W. Suite 1000 Washington, D.C. 20004-1304	5	Board's Staff: Anthony Centrella, Director Division of Telecommunications Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
3	Ratepayer Advocate: Seema M. Singh, Esq. Acting Director and Ratepayer Advocate Division of Ratepayer Advocate 31 Clinton Street, 11 th Floor P.O. Box 46005 Newark, New Jersey 07101	6	Deputy Attorney General: Arlene, Pasko Department of Law & Public Safety Division of Law 124 Halsey Street, 5 th floor P.O. Box 45029 Newark, New Jersey 07102